



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6017-99

17 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 23 November 1949 for four years. At the time of your enlistment, you had completed more than 16 months of active Army service. The record reflects that you reported for 14 days of active duty for training on 25 March 1950.

On 20 April 1950, the Chief of Naval Personnel (CNP) advised recruiting officials that your application for enlistment indicated that you had never been arrested by civil authorities. However, a Federal Bureau of Investigation report indicated an arrest for "open lewdness." Thereafter, the Commandant, Fourth Naval District (COM4ND) advised CNP that you had been arrested by civil authorities on 18 November 1948 and charged with open lewdness for masturbating in a parked automobile. CHNAVPERS then directed that you be given an opportunity to submit a voluntary sworn statement concerning your civil police record. On 22 June

1950, COM4ND notified CHNAVPERS that all efforts to contact you for a sworn statement concerning your police record had been unsuccessful.

On 8 August 1950, COM4ND was advised that a board of officers convened in the Bureau of Naval Personnel had considered the facts and circumstances of your failure to disclose your prior police record at the time of enlistment, and your apparent lack of interest in the Naval Reserve. The board of officers found you unsuited for further retention and recommended discharge. CHNAVPERS directed discharge by reason of unsuitability. You received a general discharge on 10 August 1950.

Regulations then in effect provided that a discharge under honorable conditions would be issued to individuals discharged by reason of unsuitability when directed by CHNAVPERS.

In its review of your application the Board conducted careful search of your service record for any mitigating factors which might warrant a recharacterization of your general discharge. However, no justification for such a change could be found. The Board concluded that a general discharge was appropriate given your failure to disclose your prior civil police record. The Board believed that you were fortunate that CHNAVPERS did not direct discharge under other than honorable conditions for fraudulent enlistment. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director